

§ 72.27

may be commenced. If the owner of such property neglects or refuses to give such bond within a reasonable time considering the condition of the property the Director or his delegate shall request the U.S. Marshal to proceed to sell the property at public sale as soon as practicable and to pay the proceeds of sale, less reasonable costs of the seizure and sale, to the court to abide its final order, decree, or judgment.

(68A Stat. 869, 870, as amended; 26 U.S.C. 7322, 7323, 7324)

[T.D. ATF-9, 39 FR 9954, Mar. 15, 1974, as amended by T.D. ATF-183, 49 FR 37061, Sept. 21, 1984]

§ 72.27 Summary destruction of explosives subject to forfeiture.

(a) Notwithstanding the provisions of § 55.166 of this Title, in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture in which it would be impracticable or unsafe to remove the materials to a place of storage or would be unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least 1 credible witness.

(b) Within 60 days after any destruction made pursuant to paragraph (a) of this section, the owner of the property and any other persons having an interest in the property so destroyed may make application to the Director for reimbursement of the value of the property in accordance with the instructions contained in ATF Publication 1850.1 (9-93), Information to Claimants. ATF P 1850.1 is available at no cost upon request from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950. The Director shall make an allowance to the claimant not exceeding the value of the property destroyed, if the claimant establishes to the satisfaction of the Director that—

(1) The property has not been used or involved in a violation of law; or

(2) Any unlawful involvement or use of the property was without the claim-

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ant's knowledge, consent, or willful blindness.

[T.D. ATF-363, 60 FR 17449, Apr. 6, 1995]

Subpart D—Remission or Mitigation of Forfeitures

§ 72.31 Laws applicable.

Remission or mitigation of forfeitures shall be governed by the applicable customs laws.

(Sec. 613, 618, 46 Stat. 756, as amended, 757, as amended, sec. 4, 53 Stat. 1292, sec. 7327, 68A Stat. 871; 19 U.S.C. 1613, 1618, 49 U.S.C. 784, 26 U.S.C. 7327)

§ 72.32 Interest claimed.

Any person claiming an interest in property, including carriers, seized by alcohol, tobacco and firearms officers as subject to administrative forfeiture may file a petition addressed to the Director, for remission or mitigation of the forfeiture of such property.

§ 72.33 Form of the petition.

There is no set or standardized form provided or required by the Department for use in filing a petition for remission or mitigation of forfeiture. However, it is preferable that the petition be typewritten on legal size paper; and it is necessary that the petition be executed under oath, prepared in triplicate and addressed to the Director, and that all copies of original documents submitted as exhibits in support of allegations of the petition be certified as true and accurate copies of originals. Each copy of the petition must contain a complete set of exhibits.

§ 72.34 Contents of the petition.

(a) *Description of the property.* The petition should contain such a description of the property or carrier and such facts of the seizure as will enable the alcohol, tobacco and firearms officers concerned to identify the property or carrier.

(b) *Statement regarding knowledge of seizure.* In the event the petition is filed for the restoration of the proceeds derived from sale of the property or carrier pursuant to summary forfeiture, it should also contain, or be supported by, satisfactory proof that